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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,266	02/26/2004	Guy Hubert Stephane Sylvain Culeron	AA-615M2	5154

27752 7590 12/08/2005

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CINCINNATI, OH 45224

EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/787,266

Applicant(s)

CULERON ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. This action is responsive to the amendment filed on September 13, 2005.
2. Claims 1-9, 11-15 are pending.
3. The objection to the disclosure is withdrawn in view of Applicants' amendment.
4. The objection to claims 1-2 and 8 for minor informalities are withdrawn in view of Applicants' amendment.
5. The rejection of claims 1-2, 6 and 8 under 35 U.S.C. 102(b) as being anticipated by Hall (US Patent No. 5,804,546) is withdrawn in view of Applicants' amendment.
6. The rejection of claims 1-4, 6-10 under 35 U.S.C. 103(a) as being unpatentable over Fowler et al. (US Patent No. 5,635,469), hereinafter "Fowler" is withdrawn in view of Applicants' amendment.
7. In the alternative, the rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Boehm et al. (US Patent No. 3,422,993) " is withdrawn in view of Applicants' amendment.

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8. The rejection of claim 5 under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Baeck et al. (US Patent No. 5,679,630), hereinafter "Baeck" is withdrawn in view of Applicants' amendment.

9. The terminal disclaimer filed on September 13, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of copending Application No. 10/787,343 has been reviewed and is accepted. The terminal disclaimer has been recorded.

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1-4, 6-9, 11, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Balzer (US Patent No. 5,858,954).

Fowler teaches a foam producing cleansing product which comprises a foamable cleansing composition and a compressible nonaerosol dispenser (see col. 4, lines 13-15), the foamable cleansing composition comprising from about 0.1% to about 20% of a surfactant, the composition having a viscosity from about 1 cps to about 200 cps (0.2 Pas) (see col. 2, line 59 to col. 3, line 28). Foams containing relatively large diameter bubbles can be refined by forcing said foams through various foam refining means including screens, porous frits, porous media (which reads on sponge) and combination thereof (see col. 19, lines 63-66). The quality of the foam is also affected by using additional foam refining means, for example, foams produced using a

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coarse-mesh screen 7 in the inlet conduit 5 of the foam dispensing nozzle with a fine-mesh screen 30 close to the discharge end of the nozzle can be improved by the addition of an intermediate (third) screen between the two original screens (see col. 22, line 59 to col. 23, line 5). The volumetric flow rates of the composition are about right for skin and hair care products and cleaning products such as shampoo and kitchen cleanser (see col. 27, lines 13-26). The compositions hereof will preferably be in the form of a stable single phase, most preferably a true solution, however, the compositions hereof can be in the form of stable emulsions (see col. 13, lines 16-19). Fowler also teaches from about 0.05% to about 10% emollient which include hydrocarbons (see col. 11, lines 24-38). Fowler, however, fails to disclose (1) the composition in microemulsion form and (2) the foam to weight ratio of the composition.

Balzer teaches that microemulsions often give the impression of being true solutions (see col. 1, lines 25-26).

With respect to difference (1), it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect one form of the composition of Fowler to be in microemulsion form because in col. 13, lines 16-21, Fowler teaches that the composition will preferably be in the form of a stable single phase, most preferably a true solution, however, the composition can also be in the form of stable emulsion, and considering the composition of Fowler which comprises hydrocarbon, water and surfactant, the form of the compositions would vary from true solutions to emulsions, and therefore would have also encompassed microemulsions in view of the teachings of Balzer that microemulsions often give the impression of being true solutions.

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With respect to difference (2), it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the foam to weight ratio of Fowler to be within those recited because similar ingredients contained in a non-aerosol containers have been utilized.

12. In the alternative, claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Balzer in further view of Boehm.

Fowler and Balzer teaches the features as described above. Fowler and Balzer, however, fails to specifically disclose a foam-generating dispenser comprising a sponge.

Boehm teaches a dispensing device and package for common household products for cleaning as well as personal products wherein the dispenser is provided with a porous material, for example the natural sponges (see col. 3, lines 48-66).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use sponge as the porous media in the dispenser of Fowler and Balzer because it is known from Boehm that the common porous media in foam dispensing devices are sponges.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Balzer as applied to the above claims and further in view of Baeck.

Fowler and Balzer teaches the features as described above. Fowler and Balzer, however, fail to disclose the incorporation of enzymes into the composition.

Baeck teaches protease enzymes having improved proteolytic activity, substrate specificity, stability and/or enhanced performance (see col. 1, lines 53-58) which can be used in

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any detergent composition or concentrated detergent compositions where high sudsing and/or good insoluble substrate removal are desired (see col. 21, lines 1-12) such as in cleaning fabrics, cleaning dishes and for personal cleansing (see col. 2, lines 16-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate enzymes into the composition of Fowler and Balzer because this would provide improved proteolytic activity, substrate specificity, stability and/or enhanced performance as taught by Baeck.

14. Claims 1-9, 11-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5 and 11 of copending Application No. 10/787,342. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar foam-generating kit comprising similar compositions comprising a microemulsion or a protomicroemulsion differing only in that the copending application does not explicitly disclose the viscosity of the surfactant.

Modification of the viscosity of the surfactant, however, is within the level of ordinary skill in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

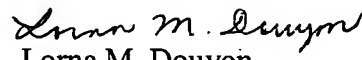
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313.

The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lorna M. Douyon  
Primary Examiner  
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